

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

In the Matter of the Complaint Against)	SUMMARY OF FACTS
The Committee for Cost Effective Public)	AND
Safety, a Political Committee, Archie)	STATEMENT OF FINDINGS
Alexander, and Lee Copenhagen)	

J. David Penwell filed a complaint alleging that the Committee for Cost Effective Public Safety, Archie Alexander, and Lee Copenhagen violated Montana Code Annotated § 13-35-225 by producing and distributing an anonymous handbill opposing the passage of a bond issue to build and operate a new detention center in Gallatin County.

SUMMARY OF FACTS

1. A handbill advocating "Vote NO on the Oak Street Jail" was produced on or about March 21, 2002, by Lee Copenhagen and Archie Alexander, members of a group calling itself the Committee for Cost Effective Public Safety (CCEPS). Approximately 60 copies of the handbill were printed; and Messrs. Copenhagen and Alexander report that fewer than 60 were distributed. The handbill did not contain a disclaimer. At the bottom of the page was printed:

Please vote against the Oak Street Jail Bond
For more information contact the citizen volunteers of the
Committee for Cost Effective Public Safety

2. The CCEPS was formed on October 29, 2001 to advocate to Gallatin County officials a need for a local justice system assessment prior to design and construction of a new detention center. Following the production of the handbill (see Fact 1), Messrs. Copenhagen and Alexander were apprised by the Commissioner's office of the registration and reporting requirements for an entity making expenditures for the

purpose of effecting the outcome of an election. The CCEPS filed a Statement of Organization, Form C-2, on May 10, 2002. The statement identified Lee Copenhagen as its treasurer, and the mailing address for the CCEPS and for Mr. Copenhagen as 530 East Davis, Bozeman, MT 59715. The purposes of the CCEPS were stated:

To advocate to Gallatin County officials that a system-wide assessment of the local justice system be performed before design and construction of a new jail.

To oppose ballot for capital and operating costs for Gallatin County Detention Center.

The CCEPS filed the Statement as an "Incidental Committee." Immediately thereafter Mr. Copenhagen was advised by the Commissioner's office that the CCEPS did not appear to meet the definition of an incidental committee and, therefore, would be classified as a county ballot issue committee. The CCEPS had intended to report the cost of the handbill as an in-kind contribution to another ballot issue committee: No Jail on Oak Street (No Jail Committee).

3. On April 29, 2002, the No Jail Committee filed a Statement of Organization, Form C-2, as a ballot issue committee, reporting Darrell Behrent as its treasurer and Archie Alexander as its deputy treasurer. The stated purpose of the ballot issue committee was: "To defeat ballots for capital and operating costs for new Gallatin County Detention Center." The No Jail Committee timely filed both pre-election and post-election Political Committee Finance Reports, Form C-6.

4. The CCEPS filed a Political Committee Finance Report, form C-6, on July 3, 2002. This pre-election C-6 reported in-kind contributions of \$42.20 from Lee Copenhagen: \$30.00 for room rent for a Committee meeting held on March 21, 2002; \$5.40 for photocopies of a handbill on March 21, 2002; and \$6.80 for postage purchased on or about March 22, 2002.

5. The CCEPS filed a second finance report on August 5, 2002. This post-election C-6 reported an in-kind contribution from Lee Copenhagen of \$2.31 for photocopies made on July 25, 2002, and \$4.30 for postage purchased on July 26, 2002.

6. The bond election for the detention center was held July 16, 2002 and the issue failed to pass.

STATEMENT OF FINDINGS

The complaint alleges the CCEPS, Archie Alexander, and Lee Copenhagen violated Montana Code Annotated § 13-35-225 when they produced a handbill advocating the defeat of the ballot issue for the detention center.

Montana Code Annotated § 13-35-225 provides, in relevant part¹:

Election materials not to be anonymous. (1) Whenever a person makes an expenditure for the purpose of financing communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, or other form of general political advertising, the communication must clearly and conspicuously state the name and address of the person who made or financed the expenditure for the communication, including in the case of a political committee, the name and address of the treasurer. Communications in a partisan election financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party affiliation or include the party symbol. (Emphasis added).

¹The statute was amended by the 2003 Montana Legislature. The text quoted is the version of the statute that was in effect when the facts giving rise to this complaint arose.

The statement at the bottom of the handbill produced by Messrs. Copenhagen and Alexander (see Fact 1) does not meet the requirements of the aforementioned statute. The expenditure for production and distribution of the handbill was later reported as an in-kind contribution by Lee Copenhagen to the CCEPS. A disclaimer on the handbill should have stated: "Paid for by Committee for Cost Effective Public Safety, Lee Copenhagen, Treasurer, 530 East Davis, Bozeman, MT 59715."

The earliest expenditures reported on behalf of CCEPS were the cost of room rent for a meeting held March 21, 2002 and photocopies of the handbill made on or about March 21, 2002. Montana Code Annotated § 13-37-201 states that a political committee must file a Statement of Organization, Form C-2, "...within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first." Given the filing requirements for a political committee, a Statement of Organization should have been filed by March 28, 2002 (five business days following the expenditure activity on behalf of the CCEPS). The Statement was filed on May 10, 2002, six weeks past the due date.

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CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings, there is sufficient evidence to conclude that the Committee for Cost Effective Safety, its individual treasurer Lee Copenhagen, and Archie Alexander violated Montana's campaign finance and practices reporting and disclosure laws and rules by failing to timely file a Statement of Organization for the Committee and by failing to properly identify by a disclaimer the handbill produced to oppose a ballot issue. A civil penalty action under Montana Code Annotated § 13-37-128 is warranted.

DATED this _____ day of June, 2003.

Linda L. Vaughey
Commissioner of Political Practices